

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16035 of David A. and Robert Schaefer, pursuant to 11 DCMR 3108.1, for a special exception under Subsection 203.10 to establish a home occupation that is beyond the scope of the Zoning Regulations as a meeting location for business and social events in an R-1-B District at premises 5001 16th Street, N.W. (Square 2713, Lot 23).

HEARING DATE: May 10, 1995

DECISION DATE: June 7, 1995 and July 12, 1995

ORDER

SUMMARY OF EVIDENCE

1. The subject property, 5001 16th Street, N.W., is located on the east side of 16th Street, N.W. between Farragut and Gallatin Streets, N.W. in the Ward 4 Northwest neighborhood of 16th Street Heights, two blocks south of the 16th Street Heights Overlay District area.

2. The site is improved with a two-story detached single-family dwelling constructed in 1926-27. The property measures approximately 75 feet in width and 125 feet in depth, and contains approximately 9,360 square feet of land area. A 15-foot alley running north-south and intersecting with Farragut Street, abuts the east rear of the site.

3. The property is located adjacent to the Rock Creek Park, including the Carter Barron Amphitheater and the Rock Creek tennis courts which are primarily used in the summer.

4. The applicants propose to use the dwelling's living and dining rooms, library, and garden to host social and business events. The applicants indicated that approximately 1,275 square feet or 23 percent of the 5,400 square-foot structure would be used for the home occupation. A maximum of 24 events would be hosted yearly at the premises. There would be a maximum of 125 invited guests at each scheduled event. Each event at the premises would last two to four hours between the hours of 10:00 a.m. and 12:00 midnight.

5. The applicants are requesting zoning relief from the home occupation requirements of Subsection 203.10 of the Zoning Regulations.

6. The applicants testified that all clients and their guests would be required to restrict their use of the property to the area specifically designated for functions according to rules of conduct incorporated in the applicants' contractual agreement with the client.

7. The applicants testified that 90 percent of the events would be held on Saturday.

8. The applicants testified that the proposed use shall not produce any noxious odors, vibrations, glare, or fumes which are detestable to normal sensory perception outside the subject home. The proposed use shall also not produce a level of noise which exceeds the level which is normally associated with the category of dwellings or the immediate neighborhood. The anticipated noise generated by the social and business functions will be of the same type and character as normally generated by private social gatherings in the neighborhood.

9. The applicants testified that sales on the property will be limited to a fee charged for the temporary use of the house as a gathering place for social and business events. Appointments and sales may be conducted by telephone. Since the nature of the home occupation does not result in any finished products, no yard sales, garage sales or home sale parties will be necessary.

10. The applicants testified that based on an expert traffic engineer's analysis, there is ample on-street parking to accommodate the number of clients, guests and vendors traveling to the site. Within a two block radius, there are 126 on-street parking spaces. It is estimated that 62 of these spaces are available during the evening peak hour on weekdays and 118 spaces are available on Saturday or a weekday after 6:30 p.m. Consequently, there are more than enough parking spaces to accommodate the number of cars arriving for special events. Moreover, the majority of houses in the immediate vicinity have garages or off-street parking.

11. Suzanne Goldstein and Phyllis Alexander, real estate experts, testified in support of the application, stating that the renovations to the property and use of the house for business and social events have enhanced the quality of the residential character of the neighborhood and improved surrounding property values.

12. Several neighborhood residents testified in support of the application. They stated that the proposed home occupation would not create any nuisances of any kind. Others in support testified that the proposed home occupation would be an asset to the community, and that no other type of home occupation could be more in step with the residential character of the community.

13. Approximately 40 letters and a petition containing 25 signed names in support of the application were submitted to the record by neighborhood residents. The residents said that the restoration of the subject premises, "The Old Cafritz House," by the applicants is an asset to the community.

14. The Carter Barron East Neighborhood Association (CBENA) testified in support of the application with two conditions. First, that the number of events be limited to 24 per year and second, that approval of the home occupation license be limited to a four year period. The applicants have agreed to both conditions.

15. Advisory Neighborhood Commission (ANC) 4C, by report dated April 12, 1995, and by testimony at the public hearing, recommended approval of the application.

16. Approximately 12 neighborhood residents, by letter dated May 2, 1995, opposed the application. They expressed the concern that the proposed home occupation would generate intolerable traffic conditions and add to parking problems in the neighborhood.

17. The Rock Creek East League testified in opposition to the application.

18. The Office of Planning (OP), by report dated May 3, 1995, recommended that the application be denied. OP was of the opinion that the proposed home occupation would be in disharmony with the general purpose and intent of the Zoning Regulations and Map. OP does not believe that the applicants would be able to limit 125 people to only a portion of the first floor and thus would exceed the allowable 25 percent to be used for the home occupation, and that noise would be created beyond what is normally associated with quiet residential neighborhoods.

FINDINGS OF FACTS:

Based on the evidence of record, the Board finds as follows:

1. The applicants had previously operated the proposed home occupation from the premises for 12 months without a Certificate of Occupancy. The Zoning Division of the Department of Consumer and Regulatory Affairs halted the activity in the fall of 1994.

2. The applicants would use 1,275 square feet of space or 23 percent of the building for the home occupation. The Zoning Regulations indicate that the larger of either 250 square feet or 25 percent of the floor area of the building can be used for the home occupation.

3. No finished products would be produced as a result of the applicants' proposed home occupation. Any files and other related materials would remain in the area designated for the home occupation or in the basement or accessory building.

4. No more than one staff member will be employed to assist with secretarial and administrative duties.

5. The applicants would use no more than two vehicles in connection with the proposed businesses, which would include their personal vehicle and their staff person's vehicle.

6. No more than two clients and two visitors shall visit the premises during a one-day period.

7. Neither the applicants nor any other person would use any equipment or process which would create visual or audible electrical interference in television or radio receivers outside the subject home, or which would cause fluctuations in line voltage outside the subject home.

8. The proposed home occupation would not produce any noxious odors, vibrations, glare, or fumes which are detestable to normal sensory perception outside the home. Additionally, the proposed use would not produce a level of noise which exceeds the level which is normally associated with the category of dwelling or the immediate neighborhood.

9. The applicants would maintain the residential character and appearance of the premises and lot, and there would be no interior structural alterations for the proposed home occupation.

10. No District Government agency to which the Office of Planning referred the application for review and comment submitted any response.

11. The applicants would adequately control the activities of their clients and guests through a contractual agreement that sets specific rules of conduct to protect the subject property and the surrounding residential neighborhood.

12. The proposed home occupation would not be a retail service or other use specified in Sections 701.1, 701.4, 721.2, 721.3, 741.2, 741.3, 751.2(b), 801.7, or 902.1, and is thus not disallowed by Section 203.9 of the Zoning Regulations.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicants are seeking a special exception to allow a home occupation which falls beyond the scope of the home occupations defined in the Zoning Regulations for an R-1-B District. In order to be granted such an exception, the applicants must demonstrate substantial compliance with the requirements of Sections 203.10 and 3108.1 of the Zoning Regulations. The applicants must demonstrate that the proposed home occupation meets the requirements of Section 203.10 of the Zoning Regulations, and that the proposed use and related conditions shall be consistent

with the purposes set forth in Section 203.1 and shall comply with the requirements of sections 203.4 through 203.8.

The Board concludes that the proposed home occupation is compatible with the residential neighborhood in which it is located.

The Board concludes that two modifications that are necessary under Subsections 203.4(g) and 203.4(m) to permit the applicants to use the outdoor garden area for their home occupation and to allow a maximum of 150 guests to visit the site for any one social event would not impair the general purposes or intent of the home occupation regulations.

The Board further concludes that the special exception for the proposed home occupation can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map, and as conditioned by this order, will not tend to affect adversely the use of neighboring properties in accordance with the Zoning Regulations and Map.

The Board has accorded ANC 4C the "great weight" to which it is entitled.

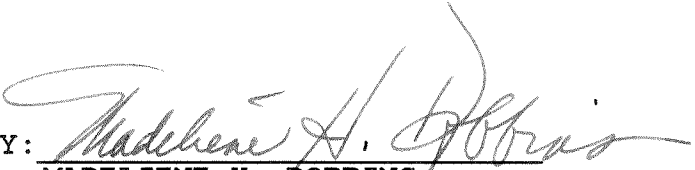
In the light of the foregoing, the Board **ORDERS** that the application be **GRANTED**, subject to the following conditions:

1. Approval shall be for a period of **TWO YEARS**.
2. A maximum number of 150 people shall be allowed to attend events.
3. No more than 24 events shall be scheduled each year, with a maximum of three events in any one month.
4. The hours of operation shall be between 10:00 a.m. and 12:00 midnight.
5. No musical instruments shall be played outside, nor shall music be amplified outside.
6. The applicant shall maintain the fence and keep the landscaping in a neat and orderly condition.

VOTE: 3-2 (Angel F. Clarens, Susan Morgan Hinton and Maybelle Taylor Bennett to grant; Craig Ellis and Laura M. Richards opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS

Director

FINAL DATE OF ORDER: MAR 18 1997

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

16035.ORD/jn/bjw/ms95

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16035

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 18 1997 a copy of the order entered on that date in this matter was mailed postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed below:


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MADELIENE H. DOBBINS
Director

DATE: MAR 18 1997